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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,740	03/06/2002	Travis J. Parry	10013768-1	8466

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

EXAMINER

HOMAYOUNMEHR, FARID

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/091,740

Applicant(s)

PARRY, TRAVIS J.

Examiner

Farid Homayounmehr

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s). ~~Not entered~~

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 1, 2, 4-14, 17-30, 33-35, 37 and 39-41.

Claim(s) withdrawn from consideration: 3, 15, 16, 31, 32, 36 and 38.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____


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Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that rejection under 35 U.S.C. 112 First Paragraph should be removed because applicant's disclosure provides enablement for claims 12 and 24. Applicant's argument is considered but is not persuasive. In the Final Action dated 1/11/2006, Examiner pointed out that the subject of the instant application is data transmission across firewalls. Therefore, the general assumption is that the data is behind a firewall and is not accessible from the outside. Claims 12 and 24 are dependent on claims 9 and 21 (respectively). Claims 9 and 21 are about transferring the data. Claims 12 and 24 put the location of the data in the email sent across the firewall. This logically implies that the data itself is not transmitted via the email in claims 12 and 24, because if it is, then there is no point in transferring its location. Therefore, after the location of the data is received, the user still has to access the data that is behind a firewall. This was the issue pointed out in the Final Action and is not addressed in the applicant's arguments filed 3/10/2006. Applicant merely names a web browser or some other application to retrieve the data, without considering that the data is behind a firewall and therefore, is not generally accessible. This would work only if the data was stored somewhere accessible to the user, and the entire purpose of the email was to merely notify the user of the location of the data. In that case, claims 12 and 24 must include the limitation that the data is stored in a location where it is accessible to the user.

Applicant also argues that Schwartz (U.S. Patent application 2002/0199114) does not anticipate claims 1-11, 13-23, 25-41. Applicant's arguments are not persuasive.

With regards to all independent claims, Applicant argues that Schwartz does not search for a firewall, and rather tries a port to send the data. Trying the first port and observing the result is the way Schwartz searches for the firewall. This is in fact identical to the way the instant application suggests searching for the firewall (see paragraph 30 of the instant application). No specific method of search is identified in claims either. Therefore, Schwartz does disclose search for the firewall in same way as the instant application does.

Applicant further argues that Schwartz does not disclose a secondary or primary protocol when a firewall is detected, and it merely tries ports. As expressed in instant application paragraph 30, ports are associated with protocols. For example port 80 is associated with HTTP protocol. When the first port fails, Schwartz tries another port, and therefore, chooses a second protocol. Therefore, Schwartz does suggest a primary and secondary protocol.

Applicant further argues that Schwartz states that "if an address or port does not yield a successful connection, then the next time the device will select the most likely address and port 506, it may not include the unsuccessful port". From this statement, applicant concludes that Schwartz method is based on database changes and it would not search for a firewall for the primary method and try the secondary if the firewall is detected. This is not true because Schwartz uses the database to save the trouble of repeating the same failing port, after it is determined that the firewall exists for the primary method. This is clearly the case because Schwartz may not try the failed port after it is established that the primary port fails and there is a firewall. Therefore, Schwartz discloses the search for a firewall for the primary address and if there is a firewall, tries the secondary address.

Lastly, applicant argues that Schwartz does not disclose the request to transmit data, because the non-traditional device attempts to establish a connection and upon establishing a connection, the non-traditional device starts communication. This is not true because Electronic systems work based on commands and signals transmitted between different subsystems and modules. If a module tries to communicate with a destination, it must generate a request to establish the communication, and this request is received and processed by the module in Schwartz system that initiates a transmission to the primary port.

Applicant also argues that Schwartz at most discloses a system for configuring a device to communicate through a firewall, where the device does not have a user input capability. Applicant makes this conclusion based on Schwartz paragraph 24 -25. However, in paragraphs 24 and 25 Schwartz merely explains that Non-traditional devices such as washers are driers could be connected to the network, and are examples of the type of devices that could be reached across the firewall. It is unclear how the applicant concludes that the non-traditional devices without user input capability imply that Schwartz invention does not disclose searching for a firewall.

Since none of the independent claims are in the condition of allowability, all dependent claims remain rejected.